IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7899 OF 2004

1. Pandurang Rakhma Kunjir and ors. .. Petitioners

Vs

Krushna Kashiba Kunjir, .. Respondent

Mr A.S.Karwande, for the petitioners.

CORAM : D.B.BHOSALE,J.

DATE : 29th September, 2004.

PC:

1. Heard the learned counsel for the petitioners.

2. The petitioners' application seeking appointment of the Court Commissioner for spot inspection to find out who is in physical possession of the suit property, has been rejected by the impugned order dated 17.8.2004. The parties have already placed voluminous documentary evidence on record and it is open for the petitioners to establish their claim on the basis thereof in respect of possession of the suit property. Moreover, in a suit for partition the fact that who is in physical possession of the suit property may not be relevant and, therefore, the application is rightly rejected by the trial Court. I see no reason to interfere in the impugned order in the petition. The petition, therefore, fails and is dismissed as such.

(D.B.BHOSALE, J.)